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Oceans and the law of the sea

Letter dated 28 January 2016 from the Permanent Representative of China to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to transmit to you herewith China's diplomatic note regarding the letter and its annexes (A/70/659) dated 7 January 2016 from the Permanent Representative of Viet Nam to the United Nations, addressed to the Secretary-General of the United Nations.

I should be grateful if you would have the present letter and its annex circulated as an official document of the seventieth session of the General Assembly, under agenda item 79 (a).

(*Signed*) **Liu** Jieyi
Ambassador Extraordinary and Plenipotentiary
Permanent Representative of the
People's Republic of China to the United Nations

16-01356 (E) 050216

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Annex to the letter dated 28 January 2016 from the Permanent Representative of China to the United Nations addressed to the Secretary-General

The Permanent Mission of the People's Republic of China to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to the letter from Permanent Representative of the Socialist Republic of Vietnam to the United Nations to the Secretary-General of the United Nations dated 7 January 2016, has the honour to state China's position as follows:

China has indisputable sovereignty over the Nansha Islands including Yongshu Jiao and the adjacent waters. It is solidly grounded in history and law. Prior to 1974, none of the successive Vietnamese governments had ever challenged China's sovereignty over the Nansha Islands. Vietnam had officially recognized that the Nansha Islands has been part of China's territory since ancient times. Such recognition can be found in Vietnamese government statements and notes as well as in Vietnamese newspapers, maps and textbooks.

After the completion of the airport on Yongshu Jiao of China's Nansha Islands, China conducted inspection and test flights to it according to international practice and China's plan from 2 to 6 January 2016, with the purpose of testing whether the newly-built airport meets the standards for civil aviation. At 17:46 on 28 December 2015, in line with the Convention on International Civil Aviation (hereinafter referred to as the Convention), its Annexes and the relevant requirements of Vietnamese and Singaporean aeronautical information publications (AIPs), the Flight Inspection Center of the Civil Aviation Administration of China submitted the flight plans to the Ho Chi Minh and Singapore Flight Information Region administering authorities respectively through the AFTN system, including aircraft type, registry, flight number, flight route and flight level. On top of the aforementioned notifications by the aviation authorities, the Chinese side also especially contacted the Vietnamese diplomatic authorities on 30 December 2015 to provide technical notification and explain the nature and purpose of relevant activities.

Regrettably, the Vietnamese side, disregarding the professional, technical and civil nature of China's inspection and test flights conducted for international public interests, refused to fulfil its obligations out of political considerations and obstructed China's test flights for no justifiable reason, thus violating the relevant provisions of the Convention and its annexes and overstepping the bounds of its authority of administrating the Flight Information Region.

In order to ensure the safety and effectiveness of relevant activities, the Chinese Government had to decide to requisition civil aircrafts to carry out the inspection and test flights, thus converting them into state aviation activities. According to international law, state aviation activities, being carried out by sovereign states, shall not be governed by the Convention or relevant regulations of the International Civil Aviation Organization (ICAO). Out of a high sense of responsibility for international civil aviation safety, the inspection and test flights were all conducted outside the normal altitude bands for international civil flights.

The inspection and test flights have shown that the newly-built airport is up to all the standards for civil aviation and fully capable of guaranteeing safe flight of civil aircrafts. It will provide a convenient means of transportation for personnel

exchanges and emergency aid, and help enhance the provision of public services, including maritime search and rescue, in the South China Sea region.

China's policy on the South China Sea issue is consistent and clear. China is rock firm in upholding its territorial sovereignty and maritime rights and interests. At the same time, China is committed to peaceful resolution of disputes through negotiation and consultation, to proper management of disputes by establishing rules and mechanisms and to mutual benefit and win-win through development and cooperation. China is committed to safeguarding the freedom of navigation and over-flight as well as peace and stability in the South China Sea. China is dedicated to making the South China Sea a sea of peace, friendship and cooperation.

With the joint efforts of China and the ASEAN countries, the situation in the South China Sea is stable on the whole. Under the framework of full and effective implementation of the Declaration on the Conduct of Parties in the South China Sea (DOC), the relevant parties have been deepening practical maritime cooperation, and steadily advancing consultations on a "Code of Conduct in the South China Sea" (COC). Such endeavours have kept making positive and significant progress.

As a staunch force in upholding and building the international rule of law, China has always faithfully acted on the purposes and principles of the Charter of the United Nations. China will continue to enhance cooperation with the ASEAN countries according to international law and the basic norms governing international relations, so as to jointly maintain peace and stability in the South China Sea.

The Permanent Mission of the People's Republic of China to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.